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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,463	07/31/2003	Charles H. Hoff	7241-1	5445

7590

08/09/2005

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EXAMINER

SOOHOO, TONY GLEN

ART UNIT

PAPER NUMBER

1723

DATE MAILED: 08/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/633,463

Applicant(s)

HOFF ET AL.

Examiner

Tony G. Soohoo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11-8-2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 10-22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>7-31-2003</u> . | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-9 , drawn to a system for measuring dispensing and delivering, classified in class 366, subclass 141.
  - II. Claims 10-22, drawn to a method of measuring, dispensing and delivering a feed ration, classified in class 119, subclass 51.01.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions II and I are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the apparatus may be used to practice a process such as providing a blend of powders, with liquid which are not usable as a feed ration.
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
4. During a telephone conversation with Brent P. Johnson on 8-2-2005 a provisional election was made WITHTRAVERSE to prosecute the invention of Group I, apparatus, claims 1-9. Affirmation of this election must be made by applicant in replying to this Office action. Claims 10-22 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

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5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barlow 4395131 in view of Fassauer 3804303.

Barlow discloses a system having a weigh hopper 81, storage bin 21, a scale 82, an auger 45, a transport line 85, a means 84 between the with a hopper 81 and transport line 85.

Barlow discloses all of the recited subject matter as defined within the scope of the claims with the exception of the manner in which the delivery line transports the material downstream being pressurized air and having an eductor arrangement.

The reference to Fassauer (cited on PTO 1449) teaches a bin 23, metering device there between to a intermediate line 91 which is fed into a transport line 100. The material is conveyed using a blower 98 and an eductor Venturi system 95, 94.

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In view of the teaching of Fassauer that one may transport particulate material utilizing air blower and a eductor Venturi system, it is deemed that it would have been obvious to one of ordinary skill in the art to provide for the delivery line 85 with a blower at one end and an eductor Venturi system so that material may be effectively transported downstream along the line 85.

With regards to the claims 2-6, the combination of Barlow in view of Fassauer discloses all of the recited subject matter as defined within the scope of the claims with the exception of having plural bins, respective plural weigh hoppers, respective introducing means to the transport line, respective scales, respective transport lines.

The Barlow as modified discloses all of the recited subject matter as defined within the scope of the claims with a single example of a bin, scale, hopper, transport lines as discussed above with the exception of the provision of plural provisions of the respective structure to provide a plural transport of plural materials.

Whereby it is a old and well known technique of material processing to utilize plural machine respective components to provide a duplication of operation so that plural components may be processed by a device, and since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art, *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8., it is deemed that it would have been obvious to one of ordinary skill in the art to duplicate the bins, weigh hopper, introducing means to the transport line, the scale, and transport lines of Barlow such that the device of Barlow, as modified, has plural bins, respective plural weigh hoppers, respective

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introducing means to the transport line, respective scales, and respective transport lines so that plural materials may be processed and delivered.

8. Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barlow 4395131 in view of Fassauer 3804303 as applied to claim 1 above, and further in view of Croft 4086663.

Barlow 4395131 in view of Fassauer 3804303 discloses all of the recited subject matter as defined within the scope of the claims with the exception of a discharge device mixing manifold which provides has plural inlet ports to provide a curtain of liquid surrounding the transport line bulk material.

The reference to Croft teaches a mixing device for gas particulate through a central transport 4 is fed into a manifold discharge whereby fluid is provided through plural inlets 6, 6 to provide a curtain of fluid surrounding the central flow of the particulate at the outlet 5 thereby mixing and wetting the material.

In view of the teaching of Croft that one may utilize a further device element to mix fluid with a gaseous particulate material by the device discussed above, it is deemed that it would have been obvious to one of ordinary skill in the art to further provide for the device of Barlow with such a mixing device for gas particulate and liquid so that the materials may be further processed into a wetted material or fluidized component slurry or liquid.

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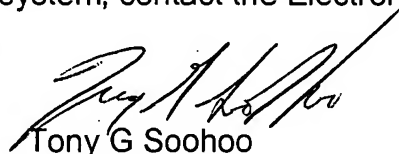
**Conclusion**

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Phillips et al 5240324, Volk et al 5284388, O'Callaghan 6203184, Whitlatch et al 5303998, Newbolt et al 5350257, Abe 5634713, and Schurr 4430001. Senn discloses another manner to introduce fluid to a bulk flow. It is also noted that the Hoff references cited on PTO 1449, 5853244 and 5487603 shows bins, hoppers, weigh scales and a pump conveyor to convey material.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tony G. Soohoo whose telephone number is (571) 272 1147. The examiner can normally be reached on 7AM - 5PM, Tu -Fri(Official Fax is 571-273-8300)..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda Walker can be reached on 571-272-1151. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Tony G Soohoo  
Primary Examiner  
Art Unit 1723

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